UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEMAR PARKER,

Plaintiff,

vs.

CITY OF DETROIT, a municipality; CHRISTOPHER TOWNSON, individually and in his official capacity as police officer for the Detroit Police Department; MARCUS WAYS, individually and in his official capacity as police officer for the Detroit Police Department; JEROLD BLANDING, individually and in his official capacity as police officer for the Detroit Police Department,

Jointly and severally,
Defendants.

Case No: 16-cv-13036-GAD-SDD
Hon. Gershwin A. Drain
Mag. Stephanie Dawkins Davis

SALVATORE PRESCOTT, PLLC
Sarah S. Prescott (P70510)
Attorneys for Plaintiff
105 East Main Street
Northville, MI 48167
(248) 679-8711
prescott@spplawyers.com

CITY OF DETROIT LAW DEPT.
Gregory B. Paddison (P75963)
Attorney for Defendants City of Detroit and Detroit Police Department
2 Woodward Ave., Ste. 500
Detroit, MI 48226
(313) 237-0435
paddisong@detroitmi.gov

AMENDED COMPLAINT AND JURY DEMAND

1. Academic study indicates that African-American men account for 40 percent of the unarmed people fatally shot by police. This makes African-American men seven times as likely as unarmed white men to die from police gunfire.
2. Police violence of this sort has been recently decried in our Supreme Court as reflecting a "shoot first, think later" mentality.
3. This is a civil rights action arising out of the violation of Plaintiff's Fourth and Fourteenth Amendment rights, brought pursuant to 42 U.S.C. § 1983, as well as the assault and battery carried out against the individual Plaintiff by the law enforcement Defendants.
4. In an incident of August 2015, Plaintiff was shot and came within inches of being killed, the latest victim of unlawful use of police force.

PARTIES, JURISDICTION AND VENUE

5. Plaintiff is an African-American man, a father, a son, a worker and donor to his community.
6. Plaintiff resides in the Eastern District of Michigan.
7. Defendant City is a municipal entity that operates a law enforcement agency organized and existing under the laws of the State of Michigan, and it is located in the Eastern District of Michigan.

8. Police Officers Christopher Townson, Jerold Blanding and Marcus Ways are employed by Defendant City of Detroit and are sued jointly and severally in their official and personal capacities.

9. All three individuals were agents acting in the course of their employment by Defendant Detroit t at all times in question.

10. Each Defendant is a "person" within the meaning of 42 U.S.C. § 1983.

11. Defendants' actions complained of herein occurred in the Eastern District of Michigan.

12. For the foregoing reasons, venue and personal jurisdiction lie in this Court.

FACTS

13. On the evening of August 14, 2015, Plaintiff arrived at his child and ex-girlfriend's duplex home near the intersection of Curtis and Mendota in Detroit, Michigan.

14. Upon approaching the home, Plaintiff observed through a window his then four year-old daughter being held by an approximately ten year-old boy, as the boy simulated sex on her.

15. The boy was the child of Defendant Townson and Plaintiff's ex-girlfriend.

16. Plaintiff was upset by what he witnessed, particularly when his ex-girlfriend refused to separate the children and denied him entry into the home to do so.

17. Plaintiff and his ex-girlfriend engaged in a lengthy and at times heated discussion through the door, as he accused the girl's mother of neglect and sought to intervene.

18. Plaintiff called his own mother for assistance, attempting to resolve his extreme concerns with the immediate safety of his daughter.

19. Plaintiff also summoned his ex-girlfriend's father—the grandfather of his young daughter—to intermediate, recognizing that his ex-girlfriend did not want to give him access to the house or the child, but hoping that a trusted relative could gain access and stop the abuse.

20. The grandfather eventually arrived as Plaintiff waited outside.

21. In order to make clear that he had no intention of escalating the situation, Plaintiff stepped well back from the home so that his daughter's grandfather could enter and assist without fear of "rushing" of the door.

22. Nevertheless, on information and belief, the mother of the child, Plaintiff's ex-girlfriend, summoned Defendant's Police Department and in particular, Defendant Townson, to her home as well.

23. Defendant Townson arrived as Plaintiff remained waiting outside.

24. The time was now shortly after 11 p.m., but the street was well lit and the weather conditions were mild.

25. Plaintiff was lightly dressed in shorts, gym shoes and a light shirt. He had no bulky clothing, such as to conceal a weapon.

26. Moreover, Plaintiff had no weapon.

27. Defendant Townson approached aggressively and began to question Plaintiff, asking questions to the effect, "What's your problem with my son?"

28. Defendant Townson flashed his service weapon at Plaintiff in an overt threat of violence.

29. In short order Defendants Marcus Ways and Jerold Blanding arrived on the scene, also armed.

30. Plaintiff asked Townson to put the gun down and requested that if he wanted to fight over the children, to handle the situation without weapons.

31. Townson, Ways and Blanding began to close in on Plaintiff, and he began to fear that they would actually do him harm.

32. Plaintiff evaded Townson, Ways and Blanding, stepping into the bright street lights illuminating Curtis Street, hoping to remain visible to witnesses and to draw attention to himself, again in fear that he would be victimized as seen in numerous high profile police shootings.

33. Plaintiff was able to avoid the closing officers and ran to his vehicle, which was to the east of the individual Defendants, parked facing west.

34. Plaintiff entered the vehicle and pulled away, headed westbound on Curtis, past the Defendants.

35. Plaintiff drove several blocks, then turned around in a parking lot nearby, as his home was in the opposite direction. That is, he drove away rather than execute a three-point turn in front of the Defendants—then turned around several blocks away, clear of their ability to harm him.

36. However, as Plaintiff returned down Curtis, this time eastbound and headed home, Defendant Marcus Ways stepped into the middle of the street, just before the intersection of Mendota, with his service weapon drawn.

37. Defendant Jerold Blanding was standing on the North (driver's side) of the street. Plaintiff observed him raise his firearm.

38. As Plaintiff drove, Defendant Blanding deployed deadly force, firing his handgun wildly and repeatedly at Plaintiff's car.

39. Approximately 15 bullet holes were left in Plaintiff's car, and various bullets flew past his head and ear as he ducked the shots.

40. The shots were aimed and intended to kill Plaintiff, including one shot directly to the driver's side window of Plaintiff's car.

41. Plaintiff was shot in the leg.

42. Once he felt he was safe from the Defendants, Plaintiff pulled over and called for medical help.

43. On information and belief, Defendants did not pursue Plaintiff, call for medical assistance, provide emergency medical aid or in any other way seek to assure Plaintiff survived the attack or would survive any injuries.

44. Authorities did not charge Plaintiff with any illegal conduct, in that he had been lawfully standing on a sidewalk when the exchange began, had done nothing wrong, had no weapon or contraband, and was attempting to give aid to his four year old child shortly before he was shot.

45. Plaintiff escaped with his life, but he suffered injury to his leg, and his car was destroyed.

46. Plaintiff's emotional experience of the shooting was haunting—particularly for an African-American male already living with routine national coverage of unlawful uses of force up to and including choke holds, unprovoked shootings, and other violent, deadly conduct toward his protected class.

ADDITIONAL COMMON ALLEGATIONS

47. The acts of the individual police Defendants alleged in this Complaint represent official policy and custom of and are attributable to the Defendant City and the Police Department for which such individuals worked.

48. The acts of the police Defendants complained of were under color of state law and undertaken in concert among the named police Defendants.

49. On information and belief, supervisory officials having final policymaking authority for the Defendant City had knowledge of the conduct complained of.

50. With regard to the constitutional deprivations alleged below, it would have been plainly obvious to a reasonable official and/or policymaker that the conduct described did deprive or would lead to deprivations of Plaintiff's constitutional rights.

51. Upon information and belief, supervisory officials having final policymaking authority for the Defendant City and its Police Department nevertheless agreed to, approved, and/or ratified the unconstitutional conduct alleged.

52. Upon information and belief, the Defendant City and its Police Department, by and through its supervisory officials having final policymaking authority, further failed to train. This failure to train led directly to the constitutional deprivations alleged below.

53. Upon information and belief, the Defendant City and its Police Department also failed to intervene in a custom of its employees of violating individuals' constitutional rights. This failure led directly to the constitutional deprivations alleged below.

54. The conduct described in this Complaint was neither privileged nor immune, reflecting at a minimum (and unless otherwise stated) gross negligence

because it was so reckless that it demonstrated a substantial lack of concern for Plaintiff's physical and emotional wellbeing.

COUNT I
Violation of 42 U.S.C. § 1983
Violation of Plaintiff's Fourth and Fourteenth Amendment Rights

55. Plaintiff incorporates by reference his allegations contained in paragraphs 1 through 54 of this complaint.

56. Plaintiff had the right to be protected from unreasonable search and seizure, including excessive use of deadly force, guaranteed by the Fourth Amendment to the United States Constitution, and incorporated against the States by the Fourteenth Amendment.

57. The individual police Defendants violated Plaintiff's Fourth Amendment rights, as set forth above, by unlawfully seizing and deploying deadly force against Plaintiff, a person who not only did not violate any law but also was never charged with any violation of law. The individual police Defendants are liable in their official and personal capacities for their conduct.

58. Defendant City t violated Plaintiff's constitutionally protected right against unreasonable search and seizure when the individual police Defendants participated in the seizure and excessive force described above, and when the supervisory staff of Defendants failed to train and failed to intervene in and later ratified the constitutional violations.

59. Defendants promulgated and/or carried out the acts and omissions, official policies, orders and directives described above intentionally and deliberately, with wanton and reckless disregard and deliberate indifference for the civil and constitutional rights, privileges and sensibilities of Plaintiff.

60. As a direct and foreseeable consequence of Defendants' acts, omissions, policy decisions, failure to train, and failure to intervene in a custom of violating individuals' constitutional rights, Plaintiff was deprived of his rights under the Fourth and Fourteenth Amendments to the United States Constitution and thereby suffered physical and emotional injury.

COUNT II
Intentional Infliction of Emotional Distress

61. Plaintiff incorporates by reference his allegations contained in paragraphs 1 through 60, as though fully set forth herein.

62. Defendants' conduct as outlined above was intentional.

63. Defendants' conduct as outlined above was extreme, outrageous, and beyond all possible bounds of decency, and of such character as to be intolerable in a civilized society.

64. Defendants' conduct was not for any proper purpose.

65. Defendants' conduct caused the severe emotional distress of Plaintiff.

66. Defendants' conduct in this matter, which proximately caused Plaintiff's injuries and damages, was grossly negligent because it was so reckless that it

demonstrated a substantial lack of concern for Plaintiff's physical and emotional wellbeing (not to mention the safety and security of the inhabitants nearby).

67. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered physical injury, permanent scarring, fear, trauma, emotional disturbances, sleeplessness and anxiety, and other damage that may arise during the course of discovery.

COUNT III
Assault and Battery

68. Plaintiff incorporates by reference his allegations contained in paragraphs 1 through 67, as though fully stated herein.

69. Defendants intended to cause harmful or offensive contact with Plaintiff.

70. Defendants placed Plaintiff in great fear of harmful physical contact.

71. Defendants set in motion a series of actions that resulted in offensive and harmful, unwanted bodily contact.

72. Defendants' conduct as outlined above was intentional.

73. Defendants' conduct was not privileged, and not carried out for any proper purpose.

74. Defendants' conduct in this matter, which proximately caused Plaintiff's injuries and damages, was grossly negligent because it was so reckless that it

demonstrated a substantial lack of concern for Plaintiff's physical and emotional wellbeing.

75. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered fear, trauma, emotional disturbances, physical injuries, sleeplessness and anxiety, and other damage that may arise during the course of discovery.

RELIEF REQUESTED

For all the foregoing reasons, Plaintiff demands judgment against Defendants as follows:

Legal Relief:

1. Compensatory damages in whatever amount Plaintiff is found to be entitled;
2. Exemplary damages in whatever amount Plaintiff is found to be entitled;
3. Punitive damages in whatever amount Plaintiff is found to be entitled; and
4. An award of interest, costs and reasonable attorney fees.

Prospective Injunctive (Equitable) Relief:

1. An injunction out of this Court (a) requiring Defendant City to provide to all police personnel who interact with the public at least eight (8) hours of training annually on use of force.
2. An award of interest, costs and reasonable attorney fees.

3. Whatever other equitable relief appears appropriate at the time of final judgment.

Respectfully submitted,
SALVATORE PRESCOTT & PORTER, PLLC

/s/Sarah S. Prescott (P70510)
Attorneys for Plaintiff
105 East Main Street
Northville, MI 48167
(248) 679-8711
prescott@spplawyers.com

Dated: December 14, 2016

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEMAR PARKER,

Plaintiff,

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CITY OF DETROIT;
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DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, by and through his undersigned counsel, and hereby demands a trial by jury of all the issues in this case.

Respectfully submitted,
SALVATORE PRESCOTT &
PORTER, PLLC

Dated: December 14, 2016

/s/ Sarah S. Prescott (P70510)
Salvatore Prescott, PLLC
Attorneys for Plaintiff
105 East Main Street
Northville, MI 48167
(248) 679-8711
prescott@spplawyers.com

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2016, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to counsel of record.

/s/ Tara L. Lank
Tara L. Lank, Legal Secretary